

AMENDED IN SENATE JUNE 11, 2001

CALIFORNIA LEGISLATURE—2001–02 SECOND EXTRAORDINARY SESSION

**SENATE BILL**

**No. 73**

**Introduced by Senator Alpert**

May 17, 2001

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An act to ~~amend Section 330 of, and to add Sections 743.10 and 743.11 to,~~ add Section 350.5 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 73, as amended, Alpert. Electrical restructuring: *Independent System Operator* interruptible service program.

~~(1) Existing law sets forth certain findings and declarations relating to electrical restructuring.~~

~~This bill would find and declare that where cost-effective electric supply cannot be secured by the Independent System Operator or the state, any system outages should be managed so as to minimize disruption to the customers.~~

~~(2) Existing law permits the Public Utilities Commission to approve contracts between an electrical corporation and its heavy industrial customers for interruptible electrical service contracts. Existing law permits the commission to amend these contracts.~~

~~This bill would require the Governor, if cost-effective electric supply cannot be secured by the Independent System Operator or the state, in collaboration with certain entities, to establish certain purchasing guidelines and to create a system of managing any interruptions in a manner so as to minimize disruption to the customers.~~

~~This bill would also require the commission to create interruptibility programs in which larger customers or communities desiring higher levels of reliability may secure that reliability in exchange for fees established by the commission. The bill would require the programs to require public utility electrical corporations to configure their distribution so that selective and identifiable blocks of customers can be provided differing levels of reliability, and to alert customers of potential outages.~~

~~Because, under existing law, a violation of the above would be a crime, the bill would impose a state-mandated local program by creating a new crime.~~

~~(3)–~~

*(1) The Public Utilities Act authorizes the Public Utilities Commission to establish rates for public utilities regulated by the commission, including electrical corporations. The act authorizes the commission to approve contracts between an electrical corporation and its heavy industrial customers as determined by the electrical corporation, of not more than 10 years' duration, in which the electrical corporation buys from the heavy industrial customer the right to interrupt the customer's service on short notice, as determined by the commission, including a discounted rate for service. Under those provisions, the commission has adopted, by decision, electrical corporation programs for the interruption of power in exchange for reduced rates.*

*This bill would require the Independent System Operator to ensure that there is affordable and reliable electric supply in California. The bill would specifically require the Independent System Operator to establish an interruptible program to ensure that only affordable electricity is purchased, as determined by the Independent System Operator, including, but not limited to, price triggers that, when exceeded, result in scheduled rotating service interruptions. The bill would require the number of customers involved in service interruptions to increase as prices increase. The bill would authorize the Independent System Operator to exempt industrial customers from rotating service interruptions under the program if they are on real-time meters and subject to wholesale prices for electricity. The bill would subject the Independent System Operator, in connection with the above requirements, to provisions making a violation of the act a crime, thereby imposing a state-mandated local program by changing the definition of a crime.*

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1.—Section 330 of the Public Utilities Code is~~  
2     ~~SECTION 1. Section 350.5 is added to the Public Utilities~~  
3     ~~Code, to read:~~  
4     ~~350.5. (a) The Independent System Operator shall ensure~~  
5     ~~that there is affordable and reliable electric supply in California.~~  
6     ~~(b) The Independent System Operator shall establish an~~  
7     ~~interruptible program to ensure that only affordable electricity is~~  
8     ~~purchased, as determined by the Independent System Operator.~~  
9     ~~The program shall include, but is not limited to, price triggers that,~~  
10    ~~when exceeded, result in scheduled rotating service interruptions.~~  
11    ~~The number of customers involved in these service interruptions~~  
12    ~~shall increase as prices increase, using a formula developed by the~~  
13    ~~Independent System Operator.~~  
14    ~~(c) The Independent System Operator may exempt industrial~~  
15    ~~customers from rotating service interruptions under the program~~  
16    ~~if they are on real-time meters and subject to wholesale prices for~~  
17    ~~electricity.~~  
18    ~~(d) The Independent System Operator shall be subject to~~  
19    ~~Chapter 11 (commencing with Section 2100) for any violation of~~  
20    ~~this section.~~  
21    ~~amended to read:~~  
22    ~~330.—In order to provide guidance in carrying out this chapter,~~  
23    ~~the Legislature finds and declares all of the following:~~  
24    ~~(a) It is the intent of the Legislature that a cumulative rate~~  
25    ~~reduction of at least 20 percent be achieved not later than April 1,~~  
26    ~~2002, for residential and small commercial customers, from the~~  
27    ~~rates in effect on June 10, 1996. In determining that the April 1,~~  
28    ~~2002, rate reduction has been met, the commission shall exclude~~

~~the costs of the competitively procured electricity and the costs associated with the rate reduction bonds, as defined in Section 840.~~

~~(b) The people, businesses, and institutions of California spend nearly twenty three billion dollars (\$23,000,000,000) annually on electricity, so that reductions in the price of electricity would significantly benefit the economy of the state and its residents.~~

~~(c) The Public Utilities Commission has opened rulemaking and investigation proceedings with regard to restructuring California's electric power industry and reforming utility regulation.~~

~~(d) The commission has found, after an extensive public review process, that the interests of ratepayers and the state as a whole will be best served by moving from the regulatory framework existing on January 1, 1997, in which retail electricity service is provided principally by electrical corporations subject to an obligation to provide ultimate consumers in exclusive service territories with reliable electric service at regulated rates, to a framework under which competition would be allowed in the supply of electric power and customers would be allowed to have the right to choose their supplier of electric power.~~

~~(e) Competition in the electric generation market will encourage innovation, efficiency, and better service from all market participants, and will permit the reduction of costly regulatory oversight.~~

~~(f) The delivery of electricity over transmission and distribution systems is currently regulated, and will continue to be regulated to ensure system safety, reliability, environmental protection, and fair access for all market participants.~~

~~(g) Reliable and cost-effective electric service is of utmost importance to the safety, health, and welfare of the state's citizenry and economy. It is the intent of the Legislature that electric industry restructuring should enhance the reliability of the interconnected regional transmission systems, and provide strong coordination and enforceable protocols for all users of the power grid.~~

~~(h) It is important that sufficient supplies of electric generation will be available to maintain the reliable service to the citizens and businesses of the state.~~

~~(i) Reliable electric service depends on conscientious inspection and maintenance of transmission and distribution~~

1 systems. To continue and enhance the reliability of the delivery of  
2 electricity, the Independent System Operator and the commission,  
3 respectively, should set inspection, maintenance, repair, and  
4 replacement standards.

5 (j) It is the intent of the Legislature that California enter into a  
6 compact with western region states. That compact should require  
7 the publicly and investor-owned utilities located in those states,  
8 that sell energy to California retail customers, to adhere to  
9 enforceable standards and protocols to protect the reliability of the  
10 interconnected regional transmission and distribution systems.

11 (k) In order to achieve meaningful wholesale and retail  
12 competition in the electric generation market, it is essential to do  
13 all of the following:

14 (1) Separate monopoly utility transmission functions from  
15 competitive generation functions, through development of  
16 independent, third-party control of transmission access and  
17 pricing.

18 (2) Permit all customers to choose from among competing  
19 suppliers of electric power.

20 (3) Provide customers and suppliers with open,  
21 nondiscriminatory, and comparable access to transmission and  
22 distribution services.

23 *(l) The commission has properly concluded that:*

24 (1) This competition will best be introduced by the creation of  
25 an Independent System Operator and an independent Power  
26 Exchange.

27 (2) Generation of electricity should be open to competition.

28 (3) There is a need to ensure that no participant in these new  
29 market institutions has the ability to exercise significant market  
30 power so that operation of the new market institutions would be  
31 distorted.

32 (4) These new market institutions should commence  
33 simultaneously with the phase in of customer choice, and the  
34 public will be best served if these institutions and the  
35 nonbypassable transition cost recovery mechanism referred to in  
36 subdivisions (s) to (w), inclusive, are in place simultaneously and  
37 no later than January 1, 1998.

38 (m) It is the intent of the Legislature that California's publicly  
39 owned electric utilities and investor-owned electric utilities should  
40 commit control of their transmission facilities to the Independent

~~1 System Operator. These utilities should jointly advocate to the  
2 Federal Energy Regulatory Commission a pricing methodology  
3 for the Independent System Operator that results in an equitable  
4 return on capital investment in transmission facilities for all  
5 Independent System Operator participants.~~

~~6 (n) Opportunities to acquire electric power in the competitive  
7 market must be available to California consumers as soon as  
8 practicable, but no later than January 1, 1998, so that all customers  
9 can share in the benefits of competition.~~

~~10 (o) Under the existing regulatory framework, California's  
11 electrical corporations were granted franchise rights to provide  
12 electricity to consumers in their service territories.~~

~~13 (p) Consistent with federal and state policies, California  
14 electrical corporations invested in power plants and entered into  
15 contractual obligations in order to provide reliable electrical  
16 service on a nondiscriminatory basis to all consumers within their  
17 service territories who requested service.~~

~~18 (q) The cost of these investments and contractual obligations  
19 are currently being recovered in electricity rates charged by  
20 electrical corporations to their consumers.~~

~~21 (r) Transmission and distribution of electric power remain  
22 essential services imbued with the public interest that are provided  
23 over facilities owned and maintained by the state's electrical  
24 corporations.~~

~~25 (s) It is proper to allow electrical corporations an opportunity  
26 to continue to recover, over a reasonable transition period, those  
27 costs and categories of costs for generation-related assets and  
28 obligations, including costs associated with any subsequent  
29 renegotiation or buyout of existing generation-related contracts,  
30 that the commission, prior to December 20, 1995, had authorized  
31 for collection in rates and that may not be recoverable in market  
32 prices in a competitive generation market, and appropriate  
33 additions incurred after December 20, 1995, for capital additions  
34 to generating facilities existing as of December 20, 1995, that the  
35 commission determines are reasonable and should be recovered,  
36 provided that the costs are necessary to maintain those facilities  
37 through December 31, 2001. In determining the costs to be  
38 recovered, it is appropriate to net the negative value of above  
39 market assets against the positive value of below market assets.~~

~~(t) The transition to a competitive generation market should be orderly, protect electric system reliability, provide the investors in these electrical corporations with a fair opportunity to fully recover the costs associated with commission approved generation-related assets and obligations, and be completed as expeditiously as possible.~~

~~(u) The transition to expanded customer choice, competitive markets, and performance based ratemaking as described in Decision 95-12-063, as modified by Decision 96-01-009, of the Public Utilities Commission, can produce hardships for employees who have dedicated their working lives to utility employment. It is preferable that any necessary reductions in the utility workforce directly caused by electrical restructuring, be accomplished through offers of voluntary severance, retraining, early retirement, outplacement, and related benefits. Whether workforce reductions are voluntary or involuntary, reasonable costs associated with these sorts of benefits should be included in the competition transition charge.~~

~~(v) Charges associated with the transition should be collected over a specific period of time on a nonbypassable basis and in a manner that does not result in an increase in rates to customers of electrical corporations. In order to insulate the policy of nonbypassability against incursions, if exemptions from the competition transition charge are granted, a firewall shall be created that segregates recovery of the cost of exemptions as follows:~~

~~(1) The cost of the competition transition charge exemptions granted to members of the combined class of residential and small commercial customers shall be recovered only from those customers.~~

~~(2) The cost of the competition transition charge exemptions granted to members of the combined class of customers other than residential and small commercial customers shall be recovered only from those customers. The commission shall retain existing cost allocation authority provided that the firewall and rate freeze principles are not violated.~~

~~(w) It is the intent of the Legislature to require and enable electrical corporations to monetize a portion of the competition transition charge for residential and small commercial consumers so that these customers will receive rate reductions of no less than~~



~~1 10 percent for 1998 continuing through 2002. Electrical  
2 corporations shall, by June 1, 1997, or earlier, secure the means to  
3 finance the competition transition charge by applying  
4 concurrently for financing orders from the Public Utilities  
5 Commission and for rate reduction bonds from the California  
6 Infrastructure and Economic Development Bank.~~

~~7 (x) California's public utility electrical corporations provide  
8 substantial benefits to all Californians, including employment and  
9 support of the state's economy. Restructuring the electric services  
10 industry pursuant to the act that added this chapter will continue  
11 these benefits, and will also offer meaningful and immediate rate  
12 reductions for residential and small commercial customers, and  
13 facilitate competition in the supply of electric power.~~

~~14 (y) Where cost effective electric supply cannot be secured by  
15 the Independent System Operator or the state, any system outages  
16 should be managed so as to minimize disruption to the customers.~~

~~17 SEC. 2. Section 743.10 is added to the Public Utilities Code,  
18 to read:~~

~~19 743.10. If cost effective electric supply cannot be secured by  
20 the Independent System Operator or the state, the Governor, in  
21 collaboration with the Independent System Operator, the  
22 commission, and public utility electrical corporations, shall do  
23 both of the following:~~

~~24 (a) Establish purchasing guidelines that allow the state and the  
25 Independent System Operator to define cost-effectiveness of  
26 short term or "real-time" power.~~

~~27 (b) Create a system of managing any interruptions in a manner  
28 so as to minimize disruption to end-use customers.~~

~~29 SEC. 3. Section 743.11 is added to the Public Utilities Code,  
30 to read:~~

~~31 743.11. The commission, in consultation with the  
32 Independent System Operator, shall create interruptibility  
33 programs in which all of the following apply:~~

~~34 (a) Large customers or communities that desire higher levels of  
35 reliability may secure that higher reliability in exchange for fees  
36 established by the commission, to be applied by the commission  
37 to offset costs to those customers who are subject to service  
38 interruptions.~~

~~39 (b) Public utility electrical corporations shall give notice of any  
40 outages pursuant to these shall configure their distribution systems~~



1 ~~so that selective and identifiable blocks of customers can be~~  
2 ~~provided differing levels of reliability.~~

3 ~~(e) Public utility electrical corporations shall give notice of any~~  
4 ~~outages pursuant to these interruptibility programs sufficient to~~  
5 ~~alert all customers, in advance, to the potential outages.~~

6 ~~SEC. 4.~~

7 *SEC. 2.* No reimbursement is required by this act pursuant to  
8 Section 6 of Article XIII B of the California Constitution because  
9 the only costs that may be incurred by a local agency or school  
10 district will be incurred because this act creates a new crime or  
11 infraction, eliminates a crime or infraction, or changes the penalty  
12 for a crime or infraction, within the meaning of Section 17556 of  
13 the Government Code, or changes the definition of a crime within  
14 the meaning of Section 6 of Article XIII B of the California  
15 Constitution.

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